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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,808	03/22/2001	Robert Maerz	24294.0003	3108

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EXAMINER

AKINTOLA, OLABODE

ART UNIT PAPER NUMBER

3624

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/813,808

Applicant(s)

MAERZ ET AL.

Examiner

Olabode Akintola

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1, 5-29, 31, 33, 34 and 36-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 5-29, 31, 33, 34 and 36-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This office action is in response to applicant's communication filed on 06/07/2006.

Claims 2-4, 30, 32, 35 have been cancelled. Claims 1, 5-6, 11-12, 19, 23, 25-26, 28, 33-34, 36, 39, 40-41 and 44 have been amended. Claims 1, 5-29, 31, 33-34, 36-48 are pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 5-9, 11, 13, 19-29, 31, 33-34, 37 and 40-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Keiser et al. (US Patent 6505174).

With regards to claims 1 and 28, Keiser teaches a method and corresponding system for establishing a product for investment in pilots for television shows and movies, the method comprising: receiving one or more pilots (col. 9, lines 14-16); assigning a rating value to each of said one or more pilots (col. 7, lines 15-18; col. 17, lines 30-39); grouping said one or more pilots into a portfolio based on said rating value of each pilot (col. 7, lines 15-16: *the Examiner interprets "fastest 20 movers up and fastest 20 movers down" as separate categories of listing based on ratings*); and offering said portfolio to potential investors for investment through a portfolio exchange (col. 9, lines 14-26).

With regards to claims 5 and 33, Keiser teaches the step wherein said rating value is based on whether a network has ordered the pilot (see col. 7, lines 15-18; col. 17, lines 30-39).

With regards to claims 6 and 34, Keiser teaches the step wherein said rating value is based on a pilot history (see col. 17, lines 30-39).

With regards to claims 7 and 29 Keiser teaches the step further comprising reporting an investment history of said portfolio (see col. 17, lines 35-67).

With regards to claim 8, Keiser teaches the step wherein said investment history is reported over the Internet (see col. 17, lines 35-67 and Fig 10).

With regards to claim 9, Keiser teaches the step comprising reporting said investment history by use of a computer to display investment data (see col. 17, lines 35-67 and Fig 10).

With regards to claims 11 and 31, Keiser teaches the step comprising branding said portfolio (see col. 6, lines 62-64; col. 7, lines 8-12).

With regards to claims 13 and 37, Keiser teaches the step wherein said trade volume is based on an average exchange trading day (see col. 22, lines 25-37).

With regards to claims 19 and 40, Keiser teaches the step of assigning a rating to a pilot further comprises providing a script-talent listing (see col. 6, lines 53-67).

With regards to claims 20 and 41, Keiser teaches the step of assigning a rating to a pilot further comprises calculating a script-talent rating based on a percentage of times a script-talent is listed (see col. 6, lines 53-67, col. 7; lines 1-17, 53-67).

With regards to claims 21 and 42, Keiser teaches the step of conducting a survey of said pilot further comprises determining a production rating (see col. 5, lines 40-50; col. 17, lines 34-46).

With regards to claims 22 and 43, Keiser teaches the step further comprising designating said production rating with a value when a script matures to become one of said pilots (see col. 5, lines 40-50; col. 17, lines 34-46).

With regards to claims 23, 44 and 45, Keiser teaches the step of assigning a rating to a pilot further comprises conducting a mock trading procedure over the Internet for said pilot (see col. 1, lines 49-55).

With regards to claims 24 and 46, Keiser teaches the step of conducting a mock trading procedure generates a rating based on a number of times a pilot is traded (see col. 7, lines 15-18; col. 17, lines 8-12).

With regards to claim 25, Keiser teaches the step further comprising calculating pilot ratings by use of a computer (see col. 7, lines 15-18; col. 17, lines 8-12).

With regards to claim 26, Keiser teaches the step further comprising calculating said pilot ratings by aggregating database of rating inputs (see col. 7, lines 7-23).

With regards to claim 27, Keiser teaches the step further comprising accessing said database of rating inputs via the Internet (see col. 7, lines 7-23).

With regards to claim 47, Keiser teaches the step further comprising a database for aggregating ratings forming said portfolio (see col. 22, lines 1-14).

With regards to claim 48, Keiser teaches the step further comprising a computer for accessing said database via the Internet (see col. 22, lines 1-14).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10, 12, 14, 15-18, 36, 38, 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keiser et al.

With regards to claim 10, Keiser is as discussed above.

Keiser does not explicitly teach the step of reporting an investment by use of a telephone to relay investment data.

However, Keiser teaches the step comprising reporting said investment history by use of a computer to display investment data (see col. 17, lines 35-67 and Fig 10). Official notice is hereby taken that it is old and well known to report transactions by use of a telephone to relay transaction data. *For example, in the banking sector, all account activities (debit and credit) involving a customer that can be displayed to said customer via the Internet can also be relayed*

to the customer over the telephone via automated telephone services. That is, the customer (using a username and password) can view all account activities online or may listen (using account number and password) to the same information concerning said activities over the telephone.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Keiser to include the step of reporting said investment by use of a telephone to relay investment data, because it provides the user with an alternative to a computer or the internet.

With regards to claims 12, 14, 15-17, 36 and 38, Keiser is as discussed above.

Keiser does not explicitly teach conducting a survey of a pilot to determine a trade volume; wherein said survey is conducted over the internet; conducting said survey by use of a computer to aggregate trade volume data; and conducting said by use of any of a telephone, modem or wireless technology to relay trade volume data; conducting a survey of a pilot comprising determining an initial day's rating for said pilot.

Keiser teaches online market research tool which allows market research users to access information about traders (see col. 5, lines 40-50; *it is well known that one of the ways for conducting a market research is through surveys which are used to generate statistical data for analysis*)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Keiser's online market research tool to include a survey to determine a trade volume as well as aggregate and relay trade volume data in order to provide useful statistical information about the marketability of the pilots thereby enhancing the efficiency of the system.

With regards to claims 18 and 39, Keiser is as discussed above.

Keiser does not explicitly teach the step of determining an initial day's rating is based on the first twenty-one (21) days that a pilot is grouped into a portfolio.

Keiser teaches step of determining an initial day's rating based on varying days (1 day, 7 days, 30 days) that a pilot is grouped into a portfolio (see col. 5, lines 40-50; col. 7, lines 54-64).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Keiser to include the step of determining an initial day's rating based on the first twenty-one (21) days that a pilot is grouped into a portfolio *since the applicant's specification does not identify any specific advantage of having an initial day's rating based on the first 21 days that the pilot is grouped into a portfolio.*

Response to Arguments

Applicant's arguments filed 06/07/2006 have been fully considered but they are not persuasive. The Applicant states that the Keiser patent does not teach grouping one or more pilots into a portfolio according to a rating value; offering said portfolio to potential investors for investment through a portfolio exchange. The Examiner disagrees. Keiser discloses a trading system for **derivative financial instruments (DFI) representing movies, talents, CDs, and television programs** (col. 6, lines 52-54), The DFI ... comprises a list of movies in various stages of production... (col. 6, lines 58-67). Trader are able to view the list sorted by:... fastest movers today (e.g., fastest 20 movers up and fastest 20 movers down). The Examiner interprets "fastest 20 movers up and fastest 20 movers down" as separate categories of listing based on ratings.

The Applicant states that the Keiser patent does not teach reporting an investment by use of a telephone to relay investment data, however the Examiner asserts that reporting an investment by use of a telephone to relay investment data would have been obvious in view of Keiser as explained in the rejection of claim 10, supra.

The Applicant states that the Keiser patent does not teach conducting a survey of said pilot. The Examiner asserts that it is well known in the art that one of the ways for conducting a market research is through surveys which are used to generate statistical data for analysis.

As such, the present invention remains anticipated by or obvious over the Keiser patent and is finally rejected.

Conclusion

3. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

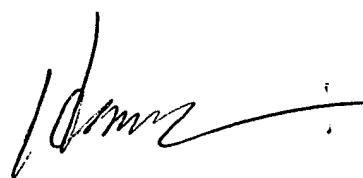
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OA



HANI M. KAZIMI
PRIMARY EXAMINER